

# SENATE BILL REPORT

## SB 5140

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As Reported by Senate Committee On:  
Human Services & Corrections, February 10, 2011

**Title:** An act relating to the deportation of criminal alien offenders.

**Brief Description:** Allowing the department of corrections to deport criminal illegal immigrant offenders serving a sentence.

**Sponsors:** Senators Hargrove, Tom and King; by request of Department of Corrections.

**Brief History:**

**Committee Activity:** Human Services & Corrections: 2/01/11, 2/10/11 [DPS].

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Majority Report:** That Substitute Senate Bill No. 5140 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Carrell, Harper and McAuliffe.

**Staff:** Shani Bauer (786-7468)

**Background:** Any alien offender who has been sentenced under the Sentencing Reform Act of 1981 and has been found by the U.S. Attorney General to be subject to a final order of deportation or exclusion may be placed on conditional release status. If placed on conditional release status, the offender is transferred to the custody of the Immigration and Customs Enforcement (ICE) division of the U.S. Department of Homeland Security.

An offender may not be released on a conditional release status unless the Secretary of the Department of Corrections finds that such a release is in the best interest of the state. Conditional release status may only be allowed with the approval of the sentencing court and the prosecuting attorney of the county of conviction.

If an offender is serving a sentence for a violent offense, sex offense, or for an offense that is a crime against a person, that offender may not be placed on conditional release status. Once an offender is turned over to ICE, the Department of Corrections (DOC) must issue a warrant for the offender's arrest within the United States which will remain in effect until the expiration of the conditional release. The unserved portion of an offender's term of

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confinement is tolled when the offender is released to ICE. If the offender is arrested, DOC must seek extradition as necessary and the offender must be returned to DOC for the completion of the unserved portion of his or her term of total confinement.

**Summary of Bill (Recommended Substitute):** The placement of an offender on conditional release status to ICE no longer requires the approval of the sentencing court and the prosecuting attorney or a determination by the secretary that the conditional release is in the best interest of the state.

An offender who is serving a sentence for an offense that is a crime against a person, but is not a violent or sex offender may be placed on conditional release status. Once an offender is transferred to ICE, DOC must issue an arrest warrant for the offender, which must remain in effect indefinitely. If an offender returns to the United States and is arrested, DOC may, but is not required to, seek extradition to have the offender returned to DOC.

These provisions apply to persons convicted before, on, or after the effective date of this section.

**EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Substitute):** An arrest warrant for an alien offender who is transferred to ICE prior to the expiration of his or her term of confinement must remain in effect indefinitely.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill contains an emergency clause and takes effect on July 1, 2011.

**Staff Summary of Public Testimony on Original Bill:** PRO: This bill is necessary to implement the budget. In the Fall of 2010, DOC entered into an agreement with ICE for an expeditious process for deportation. An ICE agent is stationed in the processing center in Shelton to determine whether a person may be deported. That process is currently in place. We have sent out approximately 100 letters asking for the agreement of the sentencing court and prosecuting agency under the current process. DOC received no responses. Having discretion in this area is a liability concern for those agencies, so this bill removes that discretion.

Tax money is wasted supporting illegal offenders.

CON: This bill starts to give illegal immigrants a get out of jail free card and does not require them to face up to the consequences of their actions. We are concerned that there is no risk assessment on these individuals for the probability to re-enter the country or reoffend. Victims should have the ability to give input anytime release is contemplated, including through deportation.

**Persons Testifying:** PRO: Scott Blonien, DOC; Tom Blandt, citizen.

CON: Karla Salp, WA Coalition of Crime Victim Advocates.